

Award No. 2206
Docket No. 1938
2-PRR-TWUOA-CIO-'56

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee Edward F. Carter when the award was rendered.

PARTIES TO DISPUTE:

**THE TRANSPORT WORKERS UNION OF AMERICA, C.I.O.
RAILROAD DIVISION**

THE PENNSYLVANIA RAILROAD COMPANY

EMPLOYES' STATEMENT OF CLAIM: 1. That the Carrier is not authorized by the Controlling Agreement to deny the Car Inspectors, at Rose Lake, Illinois, the protection of Blue Flag by day and Blue Light by night.

2. That the Carrier be ordered to afford these Employees the protection granted them under the Controlling Agreement and the Carrier's Safety Rules.

EMPLOYES' STATEMENT OF FACTS: There is an agreement between the parties hereto, dated July 1, 1949 and subsequent amendments, copies of which are on file with the Board and is, by reference hereto, made a part of this statement of facts.

At Rose Lake, Illinois, Southwestern Division, Western Region, the Pennsylvania Railroad Company, hereinafter referred to as the carrier, employs a force of car inspectors.

The car inspectors hereinbefore mentioned in this dispute will hereinafter be referred to as the claimants.

Protest was made to the car foreman at Rose Lake, Illinois, by the car inspectors in the C. T. Yard contending that they are required to couple air hose, bleed off and make inspection of air brakes in both the inbound and outbound yards without proper blue flag protection by day and blue light by night, evidence of which is submitted as employees' Exhibit A.

Cars are switched into and pulled from tracks when car inspectors are performing work of coupling air hose, bleeding cars or making inspection of air brakes.

This dispute was handled with the foreman, master mechanic and the superintendent and denied in each successive step, evidence of which is submitted as employees' Exhibit B, C and D.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

Claimants are car inspectors on carrier's road at Rose Lake, Illinois. The question in issue is whether or not carrier is required to provide blue flag or blue light protection while they are engaged in the work of (1) coupling air hose with coupling irons, (2) bleeding air from cars, and (3) making air brake inspections.

The organization relies primarily on that part of Rule 8-G-1, current agreement, which provides:

"No employe shall be required to work under a locomotive, derrick, car, elevator, or mould without proper protection."

Carrier promulgated a set of Safety Rules which every employe is required to obey and subjects himself to discipline if he does not. Among these Safety Rules, is Rule 4259 which provides in part:

"Performing any work which necessitates going under, between or fouling equipment unless a blue signal (flag by day and light by night) is displayed at both ends of equipment on the track on which work is to be done, is prohibited."

It will be noted that the quoted section of the agreement makes no reference to a blue flag or blue light, nor does any other section of the agreement do so. From this, the carrier argues that there is no question of agreement interpretation before the Board in this case and that it, therefore, has no jurisdiction to hear the dispute. We think Rule 8-G-1, current agreement, and Safety Rule 4259 create working conditions which may become a subject of dispute before this Board. The manner of applying a Safety Rule may become a matter of grievance or unjust treatment. The Board has jurisdiction and carrier's contention to the contrary is without merit.

This Board, however, has no authority to make agreements for the parties. Awards 1468, 1481. We shall therefore confine ourselves to the working conditions involved as they relate to Rule 8-G-1, current agreement, and Safety Rule 4259.

The record shows that the use of coupling irons to couple air hose has been in effect on this carrier for approximately thirty (30) years. In using them, a car inspector places a coupling iron in each hand, and while standing free of the cars, brings them together in a manner to effect a proper coupling. Without a blue flag, this is the only manner a car inspector is permitted to couple cars under the circumstances here shown and he is subject to discipline if he goes between the cars. We conclude that blue flags are not required to couple air hose where coupling irons are used. On the other hand, a car inspector should not under any circumstances go between the cars to effect a hose coupling. If for any reason the coupling irons are inadequate, his duty is to blue flag the cars or report the failure to make the coupling to his supervisors.

In the bleeding of air from cars, a car inspector pulls a rod or lever located on the side of the car thereby releasing the air. The work is performed while the car inspector is standing on the ground free of the car.

Blue flags are not required to perform this work. The organization argues that the rods or levers are sometimes broken and the bleeding of air cannot be accomplished without getting under the car. Under such circumstances a car inspector must not go under the car and he subjects himself to discipline if he does. His duty then is to blue flag the cut of cars or report the defects to his supervisor.

With reference to air brake inspections, the carrier asserts there is no necessity to go between or under cars. The inspection consists of visual inspection of the piston travel on each car and a casual observance of braking equipment. The ordinary work of brake inspection does not require the car inspector to go under the car. If a situation presents itself that requires the car inspector to go under the car, he should put out blue flags or report the situation to his superiors.

It is here contended that carrier's supervisory officers discourage the use of blue flags under conditions where they are required under the rules. There is no evidence in the record that any instructions have been given to disregard the rules. While it is essential that the work be expedited as much as possible to keep trains moving, it does not justify disregard for safety rules. It is the function of management to determine if a strict compliance with Safety Rule 4259 sufficiently meets the needs of the carrier. If it does not, then carrier must determine some other method of doing the work within the rules. In conclusion we reiterate that in the absence of blue flags, car inspectors must not go under, between or foul cars in the performance of the work herein described. On the other hand, if a meticulous compliance with the rules does not produce satisfactory results, it is an operational problem for carrier to solve. In either event, the sole duty of the car inspectors at Rose Lake is to strictly comply with the safety rules and leave any difficulties arising therefrom to be solved by the carrier. To the extent, if any, that carrier instructs or encourages car inspectors to go under, between, or foul cars in coupling hose, bleeding air, and making brake inspections, under the circumstances set forth in this dispute, the claim of the organization is sustained. The claim that blue flags or blue lights be required in all cases where coupling hose with coupling irons, the bleeding of air from cars or the inspection of brakes is involved on outbound and inbound cars, under the circumstances here shown, is denied.

AWARD

Claim disposed of as per findings.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

Attest: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 6th day of August, 1956.